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PROVISIONAL VERBATIM RECORD OF THE THREE THOUSAND
TWO HUNDRED AND SEVENTEENTH MEETING

Held at Headquarters, New York,
on Tuesday, 25 May 1993, at 9 p.m.

President:	Mr. VORONTSOV	(Russian Federation)
Members:	Brazil	Mr. SARDENBERG
	Cape Verde	Mr. BARBOSA
	China	Mr. LI Zhaoxing
	Djibouti	Mr. OLHAYE
	France	Mr. MERIMEE
	Hungary	Mr. ERDOS
	Japan	Mr. MARUYAMA
	Morocco	Mr. SNOUSSI
	New Zealand	Mr. O'BRIEN
	Pakistan	Mr. MARKER
	Spain	Mr. YAÑEZ BARNUEVO
	United Kingdom of Great Britain and Northern Ireland	Sir David HANNAY
	United States of America	Mrs. ALBRIGHT
	Venezuela	Mr. ARRIA

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93-85866 0200V (E)

The meeting was called to order at 9.25 p.m.

ADOPTION OF THE AGENDA

The agenda was adopted.

ESTABLISHMENT OF AN INTERNATIONAL TRIBUNAL FOR THE PROSECUTION OF PERSONS RESPONSIBLE FOR SERIOUS VIOLATIONS OF INTERNATIONAL HUMANITARIAN LAW COMMITTED IN THE TERRITORY OF THE FORMER YUGOSLAVIA

REPORT OF THE SECRETARY-GENERAL PURSUANT TO PARAGRAPH 2 OF SECURITY COUNCIL RESOLUTION 808 (1993) (S/25704 AND ADD.1)

The PRESIDENT: I should like to inform the Council that I have received letters from the representatives of Bosnia and Herzegovina and Croatia, in which they request to be invited to participate in the discussion of the item on the Council's agenda. In accordance with the usual practice, I propose, with the consent of the Council, to invite those representatives to participate in the discussion without the right to vote, in conformity with the relevant provisions of the Charter and rule 37 of the Council's provisional rules of procedure.

There being no objection, it is so decided.

At the invitation of the President, Mr.Sacirbey (Bosnia and Herzegovina) and Mr. Drobnjak (Croatia) took places at the Council table.

The PRESIDENT: The Security Council will now begin its consideration of the item on its agenda.

The Security Council is meeting in accordance with the understanding reached in its prior consultations.

Members of the Council have before them the report of the Secretary-General pursuant to paragraph 2 of Security Council resolution 808 (1993), documents S/25704 and Addendum 1. Members of the Council also have before them document S/25826, which contains the text of a draft resolution submitted by France, New Zealand, the Russian Federation, Spain, the United Kingdom of Great Britain and Northern Ireland and the United States of America.

(The President)

I should like to draw the attention of the members of the Council to the following other documents: S/25417, note verbale dated 12 March 1993 from the Permanent Mission of Mexico to the United Nations addressed to the Secretary-General; S/25504, letter dated 31 March from the Chargé d'affaires a.i. of the Permanent Mission of Canada to the United Nations addressed to the Secretary-General; S/25594, letter dated 13 April 1993 from the Permanent Representative of Canada to the United Nations addressed to the Secretary-General; S/25537, letter dated 5 April 1993 from the Permanent Representative of the Russian Federation to the United Nations addressed to the Secretary-General; S/25540, letter dated 6 April 1993 from the Permanent Representative of Brazil to the United Nations addressed to the Secretary-General; S/25575, letter dated 5 April 1993 from the Permanent Representative of the United States of America to the United Nations addressed to the Secretary-General; S/25652, letter dated 20 April 1993 from the Permanent Representative of Slovenia to the United Nations addressed to the Secretary-General; S/25716, note verbale dated 30 April 1993 from the Permanent Representative of the Netherlands to the United Nations addressed to the Secretary-General; S/25765, letter dated 11 May 1993 from the Chargé d'affaires a.i.of the Permanent Mission of Canada to the United Nations addressed to the Secretary-General; S/25801, letter dated 19 May 1993 from the Chargé d'affaires a.i. of the Permanent Mission of Yugoslavia to the United Nations addressed to the Secretary-General; and S/25829, letter dated 24 May 1993 from the Permanent Representatives of France, the Russian Federation, Spain, the United Kingdom of Great Britain and Northern Ireland and the United States of America to the United Nations addressed to the President of the Security Council.

(The President)

It is my understanding that the Council is ready to proceed to the vote on the draft resolution before it. Unless I hear any objection, I shall now put the draft resolution to the vote.

There being no objection, it is so decided.

A vote was taken by show of hands.

In favour: Brazil, Cape Verde, China, Djibouti, France, Hungary, Japan, Morocco, New Zealand, Pakistan, Russian Federation, Spain, United Kingdom of Great Britain and Northern Ireland, United States of America, Venezuela

The PRESIDENT (interpretation from Russian): There were 15 votes in favour. The draft resolution has therefore been adopted unanimously as resolution 827 (1993).

I shall now call on those members of the Council who wish to make statements following the voting.

Mr. ARRIA (Venezuela) (interpretation from Spanish): The evolution of international society reveals the need to create a corrective and punitive forum, particularly in the case of crimes affecting the very essence of the civilized conscience, as in the case of crimes against humanity.

In Nüremberg and Tokyo we saw the emergence of international courts to try those guilty of the crimes committed during the course of the Second World War. Now the Security Council has decided to act on behalf of the global community of States by establishing an International Tribunal which, as a forum representing all humanity, will bring to trial and punish those guilty of abominable crimes. This is the vital significance of the step the Council has taken today as a substantive part of the Vance-Owen peace process.

(Mr. Arria, Venezuela)

The search for justice cannot be tainted by diplomatic or political considerations. Too many grave violations of human rights have taken place in many parts of the world while those responsible for them have escaped the hand of justice, such as the Khmer Rouge in Cambodia and the warlords in Somalia; Sudan, Iraq and Haiti are other instances.

But there comes a time when one must ask oneself: "If we do not act now, when will we? If we do not act in a case such as this, when will we act?" The Security Council has asked itself that question. It has reflected upon it and agreed unanimously to take immediate action in the case of the former Yugoslavia, while at the same time issuing a warning to others elsewhere that they cannot continue violating international humanitarian law with impunity. The Council goes even further by encouraging the establishment of a permanent International Tribunal, as my country among many others has been advocating.

The delegation of Venezuela voted in favour of resolution 808 (1993), which decided to establish the Tribunal, because it is convinced of the duty incumbent upon the international community to reaffirm that the commission of such crimes as those that have clearly been committed in this case cannot pass without political condemnation and penal sanctions. Such a situation would be intolerable in modern society.

My delegation recognizes that the Tribunal is intended to deal with a specific and limited crisis that the Council has been addressing under Chapter VII of the Charter. It also recognizes that the Tribunal, as a subsidiary organ of the Council, would not be empowered with - nor would the Council be assuming - the ability to set down norms of international law or to legislate with respect to those rights. It simply applies existing international humanitarian law.

(Mr. Arria, Venezuela)

Venezuela recognizes that in adopting the draft Statute of the Tribunal the Council is also taking exceptional action. It is on the basis of this exceptional nature of the action that we can accept aspects of the Statute with respect to which suggestions for its refinement or improvement and adaptation might have been made with a view to addressing the specific features of the legal régimes of various Member States. Venezuela believes that this ad hoc Tribunal has thus been established to act in support of the purposes and principles of the Charter.

My delegation trusts that the ad hoc Tribunal will indeed be impartial, because it is conceived as the expression of a commitment to an indispensable system of international justice and in no way as an act of retaliation against the Serbs or any other specific group. It is being established in an attempt to bring to trial and punish anyone who proves to be guilty of the horrible crimes that have been committed in the former Yugoslavia, as well as to reverse the consequences of the crime of genocide committed for territorial gain and to provide financial compensation to the victims, as the resolution we have adopted this evening provides.

My delegation stresses that the central function of the Tribunal will be exercised by the chief prosecutor who, as of now, should be provided with all the necessary financial and administrative support. Otherwise, the Tribunal will not be able to fulfil its mandate. In this respect, we suggest that the Prosecutor should not confine himself to bringing cases before the Tribunal, but should also present an overall report on all of the violations of international humanitarian law that come to his knowledge, which will provide him with an historical record of great importance.

(Mr. Arria, Venezuela)

Finally, I would call attention to that unfinished part of our Organization's agenda, which refers to the creation of a permanent international penal jurisdication. The creation of such a jurisdiction has been debated for many years. Today, the global scope of organized criminal activity requires a concomitant global political will to prosecute and punish it. Accountability for criminal conduct affecting and offending humanity should also entail global accountability. We need appropriate machinery to address that situation, before events overwhelm us.

Pain and indignation at certain types of crimes and an outcry for justice have become global. No one can deny that organized crime today is transnational, defying national laws and extending beyond all national jurisdictions. Such crimes as terrorism, money laundering, drug trafficking, the illicit traffic in conventional and non-conventional weapons, financial speculation and other offences committed by cartels, mafias and gangs have grown so widespread that they are not only increasingly serious but also increasingly sophisticated, easily able to flout national jurisdictions. Just as there is "ethnic cleansing", there is also a "cleansing" of judges, journalists, police officers and political leaders who dare to oppose organized crime. Undoubtedly, the rights of these persons are just as fundamental as those to be dealt with by the ad hoc Tribunal for the former Yugoslavia.

Nothing encourages crime more than impunity, and thus the international community cannot continue to put off a global response such as a permanent tribunal. Humanity is suffering in too many corners of the world, not only in the former Yugoslavia.

(Mr. Arria, Venezuela)

This horrible dimension and reality of global crime and offenses against international humanitarian law must come to an end. We must put an end to the interminable legal discussions that, in delaying the establishment of international jurisdiction, are merely encouraging impunity. That is the reality.

Mr. MERIMEE (France) (interpretation from French): In adopting resolution 827 (1993), the Security Council has just established an International Tribunal that will prosecute, judge and punish people from any community who have committed or continue to commit crimes in the territory of the former Yugoslavia.

(Mr. Mérimée, France)

The Nuremberg Tribunal and the Tokyo Tribunal judged, on behalf of humanity in its entirety, those who had breached the most elementary rules. Those Tribunals were established by the victors at the end of a war. Today, through the Security Council, it is the international community that is establishing the International Tribunal for Yugoslavia.

The Statute of the Tribunal that we have adopted under resolution 827 (1993) defines its competence and mandate. The Statute was worked out at the request of the Security Council, pursuant to resolution 808 (1993), by the Secretary-General and his colleagues, in particular Mr. Carl-August Fleischhauer, in a very short period of time, and my delegation wishes to pay a tribute to the outstanding quality of their work. That work has made it possible for us to adopt the draft Statute very quickly and without amendment.

I should like to make a few brief comments on this subject: firstly, the expression "laws or customs of war" used in Article 3 of the Statute covers specifically, in the opinion of France, all the obligations that flow from the humanitarian law agreements in force on the territory of the former Yugoslavia at the time when the offences were committed.

Secondly, with regard to Article 5, that Article applies to all the acts set out therein when committed in violation of the law during a period of armed conflict on the territory of the former Yugoslavia, within the context of a widespread or systematic attack against a civilian population for national, political, ethnic, racial or religious reasons.

Thirdly, we believe that, pursuant to Article 9, paragraph 2, the Tribunal may intervene at any stage of the procedure and assert its primacy, including from the stage of investigation where appropriate, in the situations covered under Article 10, paragraph 2.

(Mr. Mérimée, France)

Resolution 827 (1993) was adopted under Chapter VII of the Charter. The threat to international peace and security created by the serious situation in the former Yugoslavia justifies recourse to those provisions. This resolution, which is a decision within the meaning of Article 25 of the Charter, thus now applies to all States. This means, specifically, that all States are required to cooperate fully with the Tribunal, even if this obliges them to amend certain provisions of their domestic law.

France is pleased, therefore, that the initiative that it took this past February has led to such a resounding expression by the United Nations of our common resolve not to tolerate infamy and to assert the rule of law. My country hopes that this message will be understood by all and that it will help silence the guns on the territory of the former Yugoslavia.

Mrs. ALBRIGHT (United States of America): Today we begin to cleanse the hatred that has torn apart the former Yugoslavia. A few months ago, I said:

> "This will be no victors' tribunal. The only victor that will prevail in this endeavour is the truth." (S/PV.3175, p. 11)

Truth is the cornerstone of the rule of law, and it will point towards individuals, not peoples, as perpetrators of war crimes. And it is only the truth that can cleanse the ethnic and religious hatreds and begin the healing process.

Included among the millions who will learn of this resolution are the hundreds of thousands of civilians who are the victims of horrific war crimes and crimes against humanity in the former Yugoslavia. To these victims we declare by this action that your agony, your sacrifice, and your hope for

(Mrs. Albright, United States)

justice have not been forgotten. And to those who committed these heinous crimes, we have a very clear message: war criminals will be prosecuted and justice will be rendered.

The crimes being committed, even as we meet today, are not just isolated acts of drunken militiamen, but often are the systematic and orchestrated crimes of Government officials, military commanders, and disciplined artillerymen and foot soldiers. The men and women behind these crimes are individually responsible for the crimes of those they purport to control; the fact that their power is often self-proclaimed does not lessen their culpability.

Those sceptics - including the war criminals - who deride this Tribunal as being powerless because the suspects may avoid arrest should not be so confident. The Tribunal will issue indictments whether or not suspects can be taken into custody. They will become international pariahs. While these individuals may be able to hide within the borders of Serbia or in parts of Bosnia or Croatia, they will be imprisoned for the rest of their lives within their own land. Under today's resolution, every Government, including each one in the former Yugoslavia, will be obligated to hand over those indicted by the Tribunal.

We must ensure that the voices of the groups most victimized are heard by the Tribunal. I refer particularly to the detention and systematic rape of women and girls, often followed by cold-blooded murder. Let the tens of thousands of women and girls who courageously survived the brutal assault of cowards who call themselves soldiers know this: your dignity survives, as does that of those who died.

(Mrs. Albright, United States)

The Honourable Geraldine Ferraro, who recently represented the United States on the Human Rights Commission, said of this crime:

> "Rape should not be used as a weapon of war. It should also not be used as a tool for revenge... Women's rights are human rights, and must be respected as such."

The International Tribunal will prosecute the rapists and murderers and their superiors.

My Government is also determined to see that women jurists sit on the Tribunal and that women prosecutors bring war criminals to justice. Our view is shared by all of the women Permanent Representatives of this Organization. We also take note of the recommendation of the Organization of the Islamic Conference that gender be duly represented on the Tribunal.

Today's resolution contains important provisions designed to ensure the expeditious establishment of the Tribunal. It is imperative that I take some time to state clearly and completely the understandings which underpin my Government's support for this resolution and for the Statute of the Tribunal. To begin, we want to stress the importance of three provisions in particular.

Today's resolution ensures that the United Nations Commission of Experts will continue to pursue its work of establishing a database and preparing evidence during the interim period before the appointment of the Tribunal's Prosecutor and hiring of staff to begin authoritative investigations and preparations for trials. We expect that the Secretary-General will provide the Commission with the space, resources and personnel necessary to continue its mandate, and we urge other countries to follow our lead in pledging financial contributions to the Commission. At the appropriate time, we expect the Commission would cease to exist and that its work would be folded into the Prosecutor's office.

(Mrs. Albright, United States)

The resolution also encourages States to submit proposals for the rules of evidence and procedure for consideration by the judges of the Tribunal. We hope to contribute to this critical process of developing the rules that the Tribunal can expeditiously adopt so that the Prosecutor will then be in a position to begin prosecuting cases without further delay.

In addition, the resolution recognizes that States may find it necessary to take measures under their domestic law to enable them to implement the provisions of the Statute, and pledges them to endeavour to take any such measures as soon as possible. That is certainly the intention of the United States.

We commend the Secretariat for its outstanding report, which has laid the foundation for today's action by the Council. While the Council has adopted the Statute for the Tribunal as proposed in that report, the members of the Council have recognized that the Statute raises several technical issues that can be addressed through interpretive statements.

In particular, we understand that other members of the Council share our view regarding the following clarifications related to the Statute:

Firstly, it is understood that the "laws or customs of war" referred to in Article 3 include all obligations under humanitarian law agreements in force in the territory of the former Yugoslavia at the time the acts were committed, including common article 3 of the 1949 Geneva Conventions, and the 1977 Additional Protocols to these Conventions.

(Mrs. Albright, United States)

Secondly, it is understood that Article 5 applies to all acts listed in that article, when committed contrary to law during a period of armed conflict in the territory of the former Yugoslavia, as part of a widespread or systematic attack against any civilian population on national, political, ethnic, racial, gender, or religious grounds.

Thirdly, it is understood that the primacy of the International Tribunal referred to in paragraph 2 of Article 9 only refers to the situations described in Article 10.

The United States wishes also to offer several other clarifications related to the provisions of the Statute:

With respect to paragraph 1 of Article 7, it is our understanding that individual liability arises in the case of a conspiracy to commit a crime referred to in Articles 2 through 5, or the failure of a superior - whether political or military - to take reasonable steps to prevent or punish such crimes by persons under his or her authority. It is, of course, a defence that the accused was acting pursuant to orders where he or she did not know the orders were unlawful and a person of ordinary sense and understanding would not have known the orders to be unlawful.

With respect to Article 10, it is our understanding that the Tribunal is authorized to conduct proceedings against persons previously tried by a national court for the same crime when national proceedings - including clemency, parole, and other similar relief - were not impartial or independent, were designed to shield the accused from international criminal responsibility, or were not diligently prosecuted.

With respect to Article 19, we understand that the reference to "prima facie" case in paragraph 1 means a reasonable basis to believe that a crime as

(Mrs. Albright, United States)

defined in Articles 2 through 5, has been committed by the person named in the indictment.

Finally, with respect to Article 24, it is our understanding that compensation to victims by a convicted person may be an appropriate part of decisions on sentencing, reduction of sentences, parole or commutation. We also understand that the Tribunal may impose a sentence of life imprisonment, or consecutive sentences for multiple offences, in any appropriate case.

With the adoption of the Statute for the Tribunal, we have completed the most difficult part of the task we began in February with resolution 808 (1993) when that was approved by the Council. We must now move without delay to the next steps, particularly the appointment of the prosecutor and the selection of judges.

Finally, of this we are certain: the Tribunal must succeed, for the sake of the victims and for the credibility of international law in this new era.

Sir David HANNAY (United Kingdom): The United Kingdom Government has been horrified at the continued evidence of massive breaches of international humanitarian law and human rights in the former Yugoslavia, the abuse of women, the deliberate obstruction of humanitarian relief convoys, forced population movements, forcible surrender of property and the deliberate military targeting of civilian populations. Above all, the practice of "ethnic cleansing" has managed to combine the commitment of the most odious of crimes for the most base purposes. All parties in the former Yugoslavia share some responsibility for these crimes, and it is important to emphasize that the action the Council is taking today is not aimed at one party alone. The Security Council has repeatedly demanded the immediate cessation of such atrocities, but these demands have not been heeded. It is essential that

(Sir David Hannay, United Kingdom)

those who commit such acts be in no doubt that they will be held individually responsible. It is essential that these atrocities be investigated and the perpetrators called to account, whoever and wherever they may be.

It is against this background, and in the very special circumstances pertaining in the former Yugoslavia, that the Council has decided to establish, as an ad hoc measure, a Tribunal for the prosecution of those responsible for serious violations of international humanitarian law in the former Yugoslavia. This is an exceptional step needed to deal with exceptional circumstances. At the same time, my Government continues to support the work of the International Law Commission, which will result, we hope, in the establishment of an international criminal court with general jurisdiction.

We therefore fully supported resolution 808 (1993), in which the Council decided in principle on the establishment of an ad hoc Tribunal to deal with the serious violations of international humanitarian law committed in the former Yugoslavia since 1991. We welcome and endorse the Secretary-General's excellent report on the most effective and expeditious means of establishing the Tribunal.

It is of the greatest importance for the effective functioning of the Tribunal that the judges, prosecutor and staff are persons with considerable practical experience in the field of criminal prosecution. The Tribunal has very specific purposes, to try persons for serious criminal offences, and it is essential that all involved are experts in the field.

Articles 9 and 10 of the Statute deal with the relationship between the International Tribunal and national courts. In our view, the primacy of the Tribunal, referred to in Article 9, paragraph 2, relates primarily to the courts in the territory of former Yugoslavia: elsewhere it will only be in

(Sir David Hannay, United Kingdom)

the kinds of exceptional circumstances outlined in Article 10, paragraph 2, that primacy should be applicable.

Articles 2 to 5 of the draft Statute describe the crimes within the jurisdiction of the Tribunal. The Statute does not, of course, create new law, but reflects existing international law in this field. In this connection, it would be our view that the reference to the laws or customs of war in Article 3 is broad enough to include applicable international conventions and that Article 5 covers acts committed in time of armed conflict.

As the resolution makes clear, it will be necessary for States to establish their own procedures for implementing their obligations under the Statute. Thus, for example, domestic procedures will be needed to give effect to the obligation under Article 29 to comply with a request or order concerning the surrender or transfer of an accused to the International Tribunal.

It will be for the General Assembly to make the necessary budgetary allocations for the effective functioning of the Tribunal, and in due course its appropriate subordinate bodies will need to scrutinize very carefully the financial arrangements and provisions for the Tribunal.

We strongly support the resolution that has just been adopted. The establishment of the Tribunal sends a clear message to all in the former Yugoslavia that they must stop immediately violations of international humanitarian law or face the consequences. We hope that message will be heeded.

Mr. ERDOS (Hungary) (interpretation from French): Hungary attaches the greatest importance to the unanimous adoption of resolution 827 (1993) of the Security Council. This is the first time that the United Nations establishes an international criminal jurisdiction to prosecute persons who commit grave violations of international humanitarian law.

This initiative is a logical follow-up of the process begun by Security Council resolution 764 (1992) which emphasized the individual responsibilities for grave violations of the 1949 Geneva Conventions in former Yugoslavia, violations which constitute horrific crimes without precedent in Europe since the end of the Second World War.

On the basis of the information that has reached us from several sources, as well as from the Commission of Experts established by the Security Council, the Council, in resolution 808 (1993), noted that the violations of international humanitarian law, because of their gravity and their generalized character, constituted a threat to international peace and security, which, in our view, fully justifies the competence of the Security Council in this sphere.

We believe that resolution 827 (1993) represents a balance between the complex political and legal requirements and, above all, creates the specific conditions necessary for the Tribunal to be set up and to begin its activity promptly.

We note also the importance of the fact that the jurisdiction of the Tribunal covers the whole range of international humanitarian law and the entire duration of the conflict throughout the territory of former Yugoslavia.

(Mr. Erdös, Hungary)

The Statute of the Tribunal allows the prosecution of all persons - not communities - charged with crimes where the crime was committed in the territory of former Yugoslavia and without regard to their ethnic affiliation. We note also that the official status of the individual brought to court, whatever it might be, does not immunize him from his criminal liability. In the light of the significance of implementing the goals set for the Tribunal and in the light of their complexity, it is important that the Tribunal be made up of highly qualified persons, both in theory and in practice, in order properly to carry out under optimal conditions the tasks that are conferred on them.

Hungary has firmly supported all resolutions of the Security Council concerning grave violations of international humanitarian law. Hungary is convinced that persons who commit or order the commission of grave and systematic violations of that law should not escape the hand of justice, and their acts cannot enjoy impunity. We are deeply convinced that it is impossible to envisage a lasting settlement of the conflict in the former Yugoslavia, including in the Republic of Bosnia and Herzegovina, without the prosecution of those who massacre and burn children, women and elderly people; who, with diabolical regularity, shell innocent civilian populations; who practice "ethnic cleansing", the true tragic implications of which have not yet been fully appreciated; who cut off the water supplies of besieged communities; who deliberately destroy cultural or religious property, and so on.

On the basis of these considerations, Hungary voted in favour of the draft resolution in the hope that its adoption and the expeditious establishment of the Tribunal will contribute effectively to bringing an end to violations of international humanitarian law and will send the right message to those at whom this resolution is aimed.

Mr. O'BRIEN (New Zealand): New Zealand welcomes the adoption of this resolution, which it co-sponsored. We particularly commend the report of the Secretary-General, including the Statute for the Tribunal to try persons responsible for violations of international humanitarian law in the territory of the former Yugoslavia. Like others here tonight, we congratulate the Secretary-General for the lucidity of his report and for the comprehensiveness of the Statute, which in large measure accords with New Zealand's own perceptions of what the Tribunal should do. We consider that it is appropriate that the Council has approved the Statute in toto here tonight.

The atrocities reportedly committed in the territory of the former Yugoslavia, notably in Bosnia and Herzegovina, have horrified and continue to horrify all of us. New Zealand considers that it is imperative that persons responsible for acts of "ethnic cleansing", the forced expulsion of people, systematic rape, torture and murder are brought to trial and are punished. The establishment of the Tribunal by this resolution ensures that we have in place an effective mechanism to achieve these ends.

As is noted in the resolution and in the Secretary-General's report, the establishment of the Tribunal and the prosecution of persons suspected of crimes against international humanitarian law is closely related to the wider efforts to restore peace and security to the former Yugoslavia. This is an important point. We recall that in the Secretary-General's report of 2 February, the Co-Chairmen of the International Conference specifically state that human rights and humanitarian issues are the core elements of the peacemaking process in the former Yugoslavia. In restating then their advocacy of the creation of the Tribunal, Messrs. Vance and Owen stated that the situation on the ground was not acceptable. Since February, of course,

(Mr. O'Brien, New Zealand)

that situation has not improved; quite the contrary. It is important here to underline this, because our decision tonight, and indeed the tribunal itself, does have a context. The Co-Chairmen set it explicitly within the peacemaking process. Implementation of that process and the work of the Tribunal must mutually reinforce one another.

We must remember, however, that the Tribunal is a court. Its task is to apply independently and impartially the rules of customary international law and, we believe, conventional law applicable in the territory of the former Yugoslavia. The Tribunal must be left to carry out its work until it has discharged its mandate under its Statute or until the Council decides that its work shall be brought to an end.

Mr. MARUYAMA (Japan): I do not believe it is necessary to elaborate on the appalling situation in the former Yugoslavia. The violations of international humanitarian law in the region are extraordinary in their scope, gravity and persistence. The humanitarian implications are enormous, not only for the present generation but also for generations to come.

The magnitude of the crisis is clearly demonstrated in unanimously adopted resolution 808 (1993), which declared the situation to be a threat to international peace and security. Its particular circumstances indeed demand exceptional measures and have motivated the Security Council to take action under Chapter VII of the United Nations Charter.

Japan is fully aware of the extraordinary and complex nature of the effort to establish an ad hoc Tribunal. It is incumbent upon us to ensure that the Tribunal is independent and neutral and that it reflects the universal authority of the United Nations. We are also required to work out a sound legal basis for the establishment and functioning of the Tribunal, and

(Mr. Maruyama, Japan)

to seek adequate resources. This should be accomplished without delay, with a view to enabling the international community to respond to the tragic humanitarian situation very quickly and in the cause of justice.

Prompted by the imminent danger and accommodating a number of difficult issues, the Secretary-General has provided us with an excellent report which strikes a proper balance among a variety of factors, particularly between political and legal demands. Japan believes that his report has enabled us to take an immediate decision and deserves our sincere appreciation.

Perhaps more extensive legal studies could have been undertaken on various aspects of the Statute, such as the question of the principle of nullum crimen sine lege and on measures to establish a bridge with domestic legal systems. In this connection, Japan has kept in close consultation with the President as well as with the Secretariat. At the same time, Japan fully shares the determination of the international community, which calls for the exhaustion of all possible measures, including the expeditious establishment of the Tribunal, to put an end to the ongoing atrocities in the former Yugoslavia and restore justice. This is the reason why Japan supported the adoption of the resolution and why it intends to cooperate in its implementation to the best of its ability, in accordance with the spirit of internationally established principles on criminal matters and within our Constitution.

The Statute of the International Tribunal itself reflects the way of thinking of the Security Council. First, it is obvious that the commencement of activities by the Tribunal in no way relieves the parties concerned of their obligation to enforce international humanitarian law.

(Mr. Maruyama, Japan)

Secondly, it is equally obvious that such legal remedies in no way relieve the Security Council of its enormous responsibility to address the Yugoslav crisis in its entirety.

Thirdly, cooperation and assistance on the part of the States concerned is essential to guarantee the smooth functioning of the Tribunal. If there is any politically misguided effort to block such cooperation, our exercise could be seriously hampered. All States must exhaust all means to cooperate in good faith. Japan stands ready to implement the common spirit of the international community and make the best use of the relevant laws and regulations in extending its maximum possible cooperation.

The Security Council is obliged to take the exceptional measures it is taking today. Yet it cannot be argued that these measures lie outside the Council's jurisdiction, for the very complexity of the threat and the gravity of the crisis have made the Council's action inevitable. On the contrary, it may be argued that, without a comprehensive strategy on the part of the international community, the complex situation in the former Yugoslavia cannot be properly addressed. We must respond to this formidable problem immediately.

Mr. SNOUSSI (Morocco) (interpretation from French): I wish at the outset to congratulate you, Sir, on the very effective way in which you have performed the duties of President this month.

Nor can I fail to say how much we appreciated the presidency of Ambassador Marker of Pakistan, which was marked by great skill and wisdom.

It gives me pleasure also to pay a well-deserved tribute to the Secretary-General for his remarkable report, which enabled us to prepare the resolution adopted this evening.

(Mr. Snoussi, Morocco)

The resolution we have just adopted will certainly breathe new life into the Council's daily efforts in a tragic situation where the prospects for a just and final solution are, unfortunately, not encouraging. Despite all our resolutions, despite the positions we have taken on these grave violations, the Bosnian Serbs have not responded to the urgent appeals of the Security Council. On the contrary, they have persisted in their defiance of the international community.

Thus, no one can doubt that the urgent establishment of this International Tribunal marks a turning-point in this tragedy. Yet, however important it may be, this special measure can be fully effective only within the context of overall action by the Council to settle this terrible conflict and restore international peace and security in the region. That is why it has always been our view that an international tribunal must be but one element of a plan, based on the principles of the United Nations Charter, to put an end to Serb aggression, to demand the return of territory acquired by force and "ethnic cleansing" and fully to restore the territorial integrity, unity and sovereignty of Bosnia and Herzegovina.

We are convinced that the International Tribunal will promote the justice to which we all aspire and will strengthen the rule of law in international relations. The tribunal must seek to punish serious violations of humanitarian law in the broadest sense as crimes against international peace and security. No guilty party will be spared the punishment commensurate with the seriousness of the crime. By virtue of the rule of universal jurisdiction, national courts will also have a role to play with respect to crimes beyond the purview of the International Tribunal. The legitimacy and legality of the Tribunal should not be questioned; the Tribunal should hand down deterrent sentences both for those who commit crimes and for their

(Mr. Snoussi, Morocco)

accomplices, and should not ignore appropriate compensation for victims and their families. Nor should the International Tribunal's sentences ignore the responsibility of States for breaches of international law attributable to them.

Yet we must recall that the effectiveness and credibility of the Tribunal, which must be independent and neutral, will depend on the political, legal, financial and technical support of the international community. All States have the obligation to cooperate with and support the Tribunal so it can carry out its mandate to the satisfaction of the victims and their families.

In conclusion, my delegation hopes sincerely that the establishment of this International Tribunal will restore hope to the civilian populations and, especially, restore its trust in the international community, whose moral norms and laws have been flouted for too long.

The PRESIDENT (interpretation from Russian): I thank the representative of Morocco for the kind words he addressed to me and to my predecessor.

Mr. BARBOSA (Cape Verde) (interpretation from French): The grave violations of international humanitarian law committed every day in the territory of the former Yugoslavia, in particular in Bosnia and Herzegovina, shock the conscience of mankind. In this Council, my country has repeatedly expressed its profound indignation and its condemnation of these acts of massive torture, murder and rape, and of the abominable practice of "ethnic cleansing", all of which have been confirmed by the Commission of Experts established pursuant to the relevant provisions of resolution 780 (1992) and by the Special Rapporteur of the Commission on Human Rights.

(Mr. Barbosa, Cape Verde)

Thus, we strongly favoured the Council's adoption of its resolution 808 (1993), since which the situation in Bosnia and Herzegovina has dangerously deteriorated, jeopardizing efforts to implement a peace plan for that country. This situation is no longer tolerable, and it justifies the adoption of this evening's resolution. My delegation was an active participant in the process leading to its adoption, and hence voted in favour of it.

The sense that its adoption was important and urgent must not make us lose our orientation and forget the Council's weighty responsibilities under the Charter of the United Nations. We believe that the establishment of the International Tribunal, which begins today, however important it may be, must be but the first step in a long and complex process. First of all, we must overcome all the difficulties and obstacles that will certainly appear as we seek to establish the Tribunal, starting with financial problems that do not appear easily resolved.

Moreover, my delegation considers that the establishment of the Tribunal will be a positive step only if it is viewed as closely connected to a suitably comprehensive peace plan capable of preserving international peace and security throughout the territory of the Socialist Federal Republic of Yugoslavia. Needless to say, this will be impossible unless an end is put to the aggression against the Republic of Bosnia and Herzegovina, unless the freedom of its people is fully achieved, and unless its sovereignty and territorial integrity are respected.

As we see it, the establishment of this Tribunal to judge and punish war crimes is an instrument for the promotion of international peace and security.

(Mr. Barbosa, Cape Verde)

That was the basis of the Council's recourse to this procedure to establish it. We therefore hope that approval of this step will encourage us to act in our search for effective solutions to the problems that we confront in that part of Europe, in keeping with the peace plan regarded by all members of the Council as the only realistic framework for providing a solution giving lasting peace for the territory of the former Yugoslavia.

Before I conclude, I am happy to convey to the Secretary-General, Mr. Boutros Boutros-Ghali, and to the Secretariat team headed by Mr. Fleischhauer, the high commendation of the Government of Cape Verde for the outstanding work they have done in such a short time. We also salute all the countries that have made important contributions to the concept of the Tribunal, beginning with France, as well as international and intergovernmental bodies.

Mr. MARKER: (Pakistan) Together with the other members of the Organization of the Islamic Conference, Pakistan has consistently and strongly advocated the early establishment of a special tribunal for the prosecution of persons responsible for serious violations of international humanitarian law committed in the territory of the former Yugoslavia since 1991. My delegation is therefore pleased with the adoption of resolution 827 (1993) by the Council.

In this connection, my delegation wishes to express its sincere appreciation and thanks for the excellent report of the Secretary-General, together with the Statute of the International Tribunal, contained in document S/25704, which we regard as a document of historic proportions and a landmark in the process of the implementation of human rights and humanitarian law.

(Mr. Marker, Pakistan)

We believe that "ethnic cleansing", genocide and other heinous crimes have been committed in the Republic of Bosnia and Herzegovina, in flagrant violation of international humanitarian law, with the specific objective of acquiring territory and as a deliberate campaign to exterminate the Republic of Bosnia and Herzegovina, a sovereign State Member of the United Nations. We trust that the establishment of an international tribunal and the prosecution of persons responsible for crimes against humanity and international humanitarian law will contribute to ensuring that such crimes are halted and that territories forcefully occupied as a result of such crimes are vacated by the aggressors. This will also contribute towards the full restoration of the unity, territorial integrity and sovereignty of the Republic of Bosnia and Herzegovina.

My delegation is committed to the comprehensive implementation of the peace plan in the Republic of Bosnia and Herzegovina, based on the principles of the United Nations Charter. We believe that the resolution we have just adopted is an important element of the Vance-Owen peace process and falls squarely within its ambit.

The international community must halt the aggression, reverse it through withdrawals from all territories occupied by the use of force and "ethnic cleansing" and restore international legality. The Security Council must move swiftly to take further appropriate and effective enforcement actions in this direction. We cannot accept, even by implication, the status quo imposed by aggression, the use of force and "ethnic cleansing". This would set a most dangerous precedent for the civilized world.

Mr. LI Zhaoxing (China) (interpretation from Chinese): China has consistently opposed crimes that violate international humanitarian law and advocated that criminals in this category should be brought to justice. Bearing in mind the particular circumstances in the former Yugoslavia and the urgency of restoring and maintaining world peace, the Chinese delegation voted in favour of the resolution we have just adopted.

This political position of ours, however, should not be construed as our endorsement of the legal approach involved. We have always held that, to avoid setting any precedent for abusing Chapter VII of the Charter, a prudent attitude should be adopted with regard to the establishment of an international tribunal by means of Security Council resolutions under Chapter VII. It is the consistent position of the Chinese delegation that an international tribunal should be established by concluding a treaty so as to provide a solid legal foundation for it and ensure its effective functioning.

Furthermore, the Statute of the International Tribunal just adopted is a legal instrument with the attributes of an international treaty involving complicated legal and financial questions. It ought to become effective only after having been negotiated and concluded by sovereign States and ratified by their national legislative organs in accordance with domestic laws. Therefore, to adopt by a Security Council resolution the Statute of the International Tribunal which gives the Tribunal both preferential and exclusive jurisdiction is not in compliance with the principle of State judicial sovereignty. The adoption of the Statute of the International Tribunal by the Security Council through a resolution by invoking Chapter VII means that United Nations Member States must implement it to fulfil their obligations provided for in the Charter. This will bring many problems and difficulties both in theory and in practice. For this reason, China has consistently maintained its reservations.

(Mr. Li Zhaoxing, China)

In short, the Chinese delegation emphasizes that the International Tribunal established in the current manner can only be an ad hoc arrangement suited only to the special circumstances of the former Yugoslavia and shall not constitute any precedent.

Mr. SARDENBERG (Brazil): Sometimes exceptionally grave circumstances may demand exceptional action on the part of the United Nations and of Member States. The action taken today by the Security Council on the establishment of an ad hoc international tribunal on war crimes in the former Yugoslavia falls clearly into that category.

The reports of widespread violations of international humanitarian law in the territory of the former Yugoslavia have caused deep shock and outrage in Brazil, as in other countries. The strongest words would not be strong enough to express the depth of our condemnation of the atrocities committed in the context of the armed conflict in that subregion of the European continent.

In the conflict in the former Yugoslavia, the most basic norms of humanity have been systematically trodden underfoot. Innocent civilians, including children, have been the victims of acts of unspeakable brutality, in utter disregard of the protection which, under international law, they are entitled to enjoy in a situation of armed conflict. That has included widespread violence against women of all ages, including a horrifying pattern of sexual assault against Muslim women. Religious persecution and racially motivated crimes have been brought to a new abhorrent level, expressed by the unacceptable phrase "ethnic cleansing".

Such criminal events could not in any way be tolerated by the international community. A cry for justice was voiced by each of the victims

(Mr. Sardenberg, Brazil)

of the crimes committed in the conflict in the former Yugoslavia, and that cry has echoed in this Chamber. In resolution 808 (1993), the Security Council had already decided that an international tribunal should be established for the prosecution of persons responsible for serious violations of international humanitarian law.

Brazil examined with great care the proposals for the establishment, by the Security Council itself, of such an international tribunal. In that consideration, we found that such proposals posed intricate and not unimportant legal difficulties, many of which were not resolved to our satisfaction.

(Mr. Sardenberg, Brazil)

Given the legal difficulties involved, which in the normal course of events would have required much more extensive study and deliberation and could have prevented us from supporting the initiative, it was only the consideration of the unique and exceptionally serious circumstances in the former Yugoslavia that determined the vote we cast on the resolution we have just adopted. Our positive vote is to be understood as a political expression of our condemnation of the crimes committed in the former Yugoslavia and of our heartfelt wish to contribute to bringing to justice, with the urgency that is imposed on us by the facts, all persons responsible for such acts. It should not be construed as an overall endorsement of legal formulas involved in the foundation or in the Statute of the International Tribunal.

We would certainly have preferred that an initiative bearing such far-reaching political and legal implications had received a much deeper examination in a context that allowed a broader participation by all States Members of the United Nations. To that end, we believe it would have been appropriate for this matter also to be brought to the attention of the General Assembly.

The views of the Brazilian Government on the main legal issues involved in the establishment and functioning of the Tribunal were expressed in the statement made on the occasion of the adoption of resolution 808 (1993) and in the memorandum submitted by Brazil and circulated in connection with that resolution in document S/25540. In particular, Brazil expressed the view that the most appropriate and effective method for establishing the International Tribunal would be the conclusion of a convention setting up an ad hoc international criminal jurisdiction and containing the terms of reference for its exercise.

(Mr. Sardenberg, Brazil)

The option of establishing the Tribunal exclusively through a resolution of the Security Council, which we did not favour, leaves unresolved a number of serious legal issues relating to the powers and competences attributed to the Council by the United Nations Charter. That fact will not and should not limit the effectiveness of the work of the International Tribunal. It does limit, however, in our understanding, the conclusions that could be drawn from the adoption of this resolution as regards the legal and political framework for the work of the Security Council.

It is our view that the resolution is aimed at addressing a specific and unique situation with a view to producing one specific result: bringing to justice the persons responsible for serious violations of international humanitarian law in the former Yugoslavia. Both the resolution and the Statute it adopts are thus not meant to establish new norms or precedents of international law. At any rate, it would not be for the Security Council to do that. The report of the Secretary-General, which is approved by the resolution, makes it clear that by adopting this resolution the Security Council is not creating or purporting to legislate international humanitarian law and that the International Tribunal will have the task of applying existing norms of international humanitarian law.

For the work of the International Tribunal to be effective, it will be essential that it receive the fullest cooperation of all States. That is a clear obligation resulting from the resolution adopted today. For its part, the Brazilian Government is determined, should the need arise, to cooperate fully with the International Tribunal in strict accordance with the relevant Brazilian legislation, which includes the observance of the constitutional competence of the Brazilian Supreme Court to process and judge requests for extradition.

Mr. YAÑEZ BARNUEVO (Spain) (interpretation from Spanish): Resolution 827 (1993), which the Council has just adopted, is the logical consequence of resolution 808 (1993), adopted last February. On that occasion, the Council decided to establish an international tribunal to bring to trial those charged with serious violations of international humanitarian law perpetrated since 1991 in the territory of the former Yugoslavia. It also urged the Secretary-General to submit a report containing specific proposals for the implementation of that decision. The Secretary-General, with the efficient assistance of the Legal Counsel, has completed that task and submitted an excellent report. On that basis, the Council is now proceeding to establish the Tribunal. Spain has already expressed its support in principle for the establishment of the International Tribunal and has now confirmed its support for that establishment in co-sponsoring and voting in favour of resolution 827 (1993).

The Secretary-General's report and the Statute of the Tribunal that it contains in its annex respond to a great extent to the concerns of the Spanish Government in this area as expressed in the comments and suggestions which it transmitted to the Secretary-General pursuant to the provisions of resolution 808 (1993). Naturally, the Statute can be improved upon and we might have benefited from certain particular improvements, especially in determining the substantive subject matter and temporal jurisdiction of the Tribunal and the characterization of crimes and penalties. Nevertheless, we have preferred to retain the form proposed by the Secretary-General in its entirety for several reasons.

First, certain clarifications can be found by reading the Statute in the light of the explanations provided in the Secretary-General's report with respect to each Article. Other clarifications can be contributed by the

(Mr. Yañez Barnuevo, Spain)

Tribunal itself when it drafts its rules of procedure and begins carrying out its judicial activities, which will consist in applying abstract rules to concrete cases, thus spelling out their content. Finally, and most importantly, the goal of restoring peace in the territory of the former Yugoslavia requires prompt action, which might have been compromised through a prolonged and detailed discussion of a Statute which satisfies the fundamental prerequisites for ensuring the achievement of that goal.

Indeed, although the Statute lacks express provisions in this respect, the Tribunal does appear as a clearly independent organ. This derives both from the qualifications required of its members and from the procedure for their selection, which includes the participation of the Security Council and the General Assembly. It derives above all from the autonomy of its machinery, which is not subject to any external review. In this connection, we should recall that this independence is not at all incompatible with its formal character as a subsidiary organ of the Council, as is borne out by the jurisprudence of the International Court of Justice with respect to the United Nations Administrative Tribunal and its relations with the General Assembly.

Secondly, we have here an impartial body governed by the law itself in fulfilling its duties. Its jurisdiction encompasses all of the territory of the former Yugoslavia and actions by all parties involved in the conflict or conflicts in that area. Moreover, its activity is governed by the general principles of law, in particular respect for the guarantees of due process and the rights of the accused. We should especially emphasize that the Statute rules out any trial of the accused _in absentia_ or the imposition of the death penalty.

Thirdly, we are creating a body that we wish to be effective. To that end, it is indispensable to impose upon States an obligation to cooperate with the Tribunal that is based upon Chapter VII of the Charter.

(Mr. Yañez Barnuevo, Spain)

That obligation implies the duty to promulgate any domestic legal measures that may be necessary. A particularly important feature of this obligation is the primacy accorded the International Tribunal over national courts.

Lastly, the resolution creates an ad hoc body with a jurisdiction limited not only geographically and temporally but also materially, in that it will be circumscribed to applying the international law in force. In fact, with the establishment of the Tribunal, we are not seeking not to create new international law or to change existing law but to guarantee effectively respect for that law.

In the final analysis, the Council, by adopting resolution 827 (1993) is seeking to make a reality of the determination contained in the preamble of the Charter to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, and indeed to establish conditions for the maintenance of justice and respect for international law in so tragic a situation as that unfortunately still being experienced by the peoples of the former Yugoslavia.

It is our hope that this crucial step that was taken today by the Council will also serve to encourage the speedy completion in the General Assembly of the work leading to the establishment of an international criminal tribunal of a permanent kind and with universal jurisdiction, the need for which is becoming increasingly imperative, as demonstrated by the conflicts not only in the former Yugoslavia but also in similar situations elsewhere that also call for justice to be done by the international community.

Mr. OLHAYE (Djibouti) (interpretation from French): Resolution 827 (1993), which we have just adopted following the report of the Secretary-General, to whom we pay a tribute, is a new measure taken by the Council to judge those charged with serious violations of international humanitarian law committed on the territory of the former Yugoslavia since 1991, in particular in the Republic of Bosnia and Herzegovina.

Since the Serbian forces in Bosnia, supported by the Belgrade Government, started the war in the Republic of Bosnia and Herzegovina, they have, faithful to animal instincts, never stopped carrying out their insane policy of dismantling a sovereign, independent State and of wiping from the face of the Earth all that was Bosnia.

Those forces, which have death squad commandos operating in their midst who are quite rightly being called war criminals, have been hired and paid by former Bosnian Serb political chiefs such as Karadzic and his ilk, who are thirsty for blood and for absolute power. This is why it is not appropriate to lump the whole thing together and call it a civil war in Bosnia and Herzegovina.

The concentration camps, the mass expulsion and deportation of civilians, the raping of women - in short, the "ethnic cleansing" practiced by the Serbs in Bosnia most particularly - are not only an insult to humanity but, unfortunately, a yet unanswered challenge to the international community.

The resolution just adopted by the Council is just one measure among so many others that we hope will be taken in the days to come. Let us, I beg,

(Mr. Olhaye, Djibouti)

not lose sight of the fact that bringing the guilty to justice, whatever their ethnic origin, and compensating the victims must be considered as two factors that are indissolubly linked and are the ultimate goal of the resolution.

The right of a people to territorial integrity is sacred, the more so because the Bosnian pluralism is deeply rooted in Bosnian soil: it cannot be shifted and cannot, either in the south or in the north, in the east or in the west, suffer any amputation.

That country will have its peace and its unity restored once the guns have been silenced, the militias have been dissolved, the causes of the conflict have been rooted out, the barriers between the regions have fallen, when all the refugees have gone back to their homes and, lastly, when all citizens have rallied round their State, the Republic of Bosnia and Herzegovina.

The PRESIDENT (interpretation from Russian): I shall now make a statement in my capacity as representative of the Russian Federation.

First of all, I should like to express my gratitude to the Secretary-General and to his colleagues in the Secretariat, in particular Mr. Fleischhauer, for his well-prepared report that includes the Statute of the International Tribunal.

The Russian Federation not only supported but in fact co-sponsored the draft resolution that establishes the International Tribunal to prosecute those responsible for serious violations of international humanitarian law committed on the territory of the former Yugoslavia since the beginning of 1991.

Today the need for this decision has become quite self-evident to us all. This has also been shown by the fact that the need for the Tribunal to

(The President)

be set up quickly was noted in the joint action programme adopted on 22 May by the Ministers for Foreign Affairs of the United States, Britain, France, Spain and Russia. Those guilty of mass crimes covered by the 1949 Geneva Protocols, violations of the laws and customs of war, crimes of genocide and crimes against humanity must be duly punished.

It is of particular importance that for the first time in history, it is not the victors who are judging the vanquished, but the entire international community that, through the Tribunal, will be passing sentence on those who are grossly violating not only the norms of international law but even quite simply our human concepts of morality and humanity.

We favour the establishment of the International Tribunal because we see in it not a place for summary justice, nor a place for settling scores or for seeking vengeance, but an instrument of justice which is called upon to restore international legality and the faith of the world community in the triumph of justice and reason. That is why, today, while the flames of war continue to rage in the territory of the former Yugoslavia, where already tens of thousands of lives have been taken, the Security Council, as the principal organ of the United Nations responsible for the maintenance of international peace and security, assumed, in accordance with the Charter of the United Nations, the responsibility for implementing the appropriate specific measures, which include the establishment of the International Tribunal.

In taking this decision to establish the International Tribunal, we are simultaneously approving its Statute, which determines the sphere of competence of that body, the form it work will take and the methods it will use, the rules governing its composition and so on. In this connection, my delegation is authorized to state the following.

(The President)

While believing that the text of the Statute addresses the tasks that face the Tribunal, and for that reason supporting it, we deem it appropriate to note that, according to our understanding, Article 5 of the Statute encompasses criminal acts committed on the territory of the former Yugoslavia during an armed conflict - acts which were widespread or systematic, were aimed against the civilian population and were motivated by that population's national, political, ethnic, religious or other affiliation.

(The President)

While supporting the establishment of this organ of international criminal justice for the punishment of persons guilty of having committed serious violations of international humanitarian law on the territory of the former Yugoslavia, we also believe that this body will not abolish nor replace national justice organs.

As we understand it, the provisions of Article 9, paragraph 2, denote the duty of a State to give very serious consideration to a request by the Tribunal to refer to it a case that is being considered in a national court. But this is not a duty automatically to refer the proceedings to the Tribunal on such a matter. A refusal to refer the case naturally has to be justified. We take it that this provision will be reflected in the rules of procedure and the rules of evidence of the Tribunal.

The establishment of the International Tribunal, apart from the great juridical meaning of this step, is also an extremely important political act taken by the international community which at the same time fulfils a preventive function and also promotes the restoration of peace in the region.

I now resume my functions as President of the Security Council.

There are no further speakers inscribed on my list. The Security Council has thus concluded the present stage of its consideration of the item on its agenda.

The Security Council will remain seized of the matter.

The meeting rose at 10.50 p.m.